

Message Text

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ACTION IO-11

INFO OCT-01 ARA-10 ISO-00 SP-02 L-03 CIAE-00 INR-07

NSAE-00 EB-07 OMB-01 CIEP-02 COME-00 TRSE-00 STR-04

PRS-01 INRE-00 SSO-00 /049 W

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O R 102114Z MAR 76

FM AMEMBASSY LIMA

TO SECSTATE WASHDC IMMEDIATE 9261

INFO USUN NEW YORK 716

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FOR EB - BOEKER; L - FELDMAN; TREAS - LANGE; COMMERCE - ARRILL;
CIEP - GRANFIELD

E.O. 11652: N/A

TAGS: OCON, EFIN, ECOSOC, PE

SUBJECT: UN COMMISSION ON TNC - US PAPER ON CORRUPT
PRACTICES

TEXT OF US PROPOSAL, SUBMITTED MARCH 10 AS CONFERENCE
ROOM PAPER NO. 4, FOLLOWS:

1. RESOLUTION 3514 (XXX), APPROVED UNANIMOUSLY BY THE GENERAL
ASSEMBLY,
CONDEMNS ALL CORRUPT PRACTICES, INCLUDING BRIBERY, BY TRANSNATIONAL
AND OTHER CORPORATIONS, THEIR INTERMEDIARIES AND OTHERS INVOLVED
IN VIOLATION OF THE LAWS AND REGULATIONS OF THE HOST COUNTRIES.
THE RESOLUTION CALLS UPON GOVERNMENTS TO TAKE NECESSARY AND
APPROPRIATE
MEASURES WITHIN THEIR RESPECTIVE NATIONAL JURISDICTIONS AND TO
CO-OPERATE TO PREVENT SUCH CORRUPT PRACTICES. FINALLY, THE
RESOLUTION REQUESTS THE ECONOMIC AND SOCIAL COUNCIL
TO DIRECT THE COMMISSION ON TRANSNATIONAL
CORPORATIONS TO INCLUDE IN ITS PROGRAMME OF WORK THE QUESTION OF
CORRUPT PRACTICES OF TRANSNATIONAL CORPORATIONS AND TO MAKE
RECOMMENDATIONS ON WAYS AND MEANS WHEREBY SUCH CORRUPT PRACTICES CAN
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BE

EFFECTIVELY PREVENTED.

2. THE PROBLEM OF CORRUPT PRACTICES IS BOTH A TRADE AND INVESTMENT PROBLEM AND, IN FACT, EXTENDS BEYOND THE ACTIVITIES OF TRANSNATIONAL ENTERPRISES. IT IS PRIMARILY THE RESPONSIBILITY OF EACH STATE TO SET FORTH CLEAR RULES RELEVANT TO SUCH ACTIVITIES WITHIN THEIR TERRITORIES - TO ESTABLISH AND ENFORCE LEGISLATION DEALING WITH THE PROBLEM, INCLUDING CLEAR RULES AS TO THE USE OF AGENTS IN TRANSACTIONS WITH THE GOVERNMENT. HOWEVER, THE DIMENSIONS OF THE PROBLEM ARE SUCH THAT UNILATERAL ACTION NEEDS TO BE SUPPLEMENTED BY MULTILATERAL CO-OPERATION.

CO-ORDINATED ACTION BY EXPORTING AND IMPORTING, HOST AND HOME COUNTRIES IS THE ONLY EFFECTIVE WAY TO PREVENT IMPROPER ACTIVITIES OF THIS KIND. THE MOST EFFECTIVE METHOD OF ACHIEVING SUCH INTERNATIONAL CO-OPERATION IS THROUGH AN INTERNATIONAL AGREEMENT DEALING WITH CORRUPT PRACTICES.

3. AN INTERNATIONAL AGREEMENT DEALING WITH CORRUPT PRACTICES SHOULD BE BASED ON THE FOLLOWING PRINCIPLES:

(A) IT WOULD APPLY TO INTERNATIONAL TRADE AND INVESTMENT TRANSACTIONS WITH GOVERNMENTS, I.E., GOVERNMENT PROCUREMENT AND OTHER GOVERNMENTAL ACTIONS AFFECTING INTERNATIONAL TRADE AND INVESTMENT AS MAY BE AGREED;

(B) IT WOULD APPLY EQUALLY TO THOSE WHO OFFER OR MAKE IMPROPER PAYMENTS AND TO THOSE WHO REQUEST OR ACCEPT THEM;

(C) IMPORTING GOVERNMENTS WOULD AGREE TO (I) ESTABLISH CLEAR GUIDELINES CONCERNING THE USE OF AGENTS IN CONNEXION WITH GOVERNMENT PROCUREMENT AND OTHER COVERED TRANSACTIONS AND (II) ESTABLISH APPROPRIATE CRIMINAL PENALTIES FOR DEFINED CORRUPT PRACTICES BY ENTERPRISES AND OFFICIALS IN THEIR TERRITORY;

(D) ALL GOVERNMENTS WOULD CO-OPERATE AND EXCHANGE INFORMATION TO HELP ERADICATE CORRUPT PRACTICES;

(E) UNIFORM PROVISIONS WOULD BE AGREED FOR DISCLOSURE BY ENTERPRISES, AGENTS AND OFFICIALS OF POLITICAL CONTRIBUTIONS, GIFTS
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AND PAYMENTS MADE IN CONNEXION WITH COVERED TRANSACTIONS.

4. THE COMMISSION BELIEVES THAT URGENT AND SERIOUS CONSIDERATION SHOULD BE GIVEN TO THE PREPARATION OF AN INTERNATIONAL AGREEMENT WHICH WOULD ESTABLISH CERTAIN STANDARDS AND PROCEDURES RELATIVE TO INTERNATIONAL TRADE AND INVESTMENT TRANSACTIONS WITH GOVERNMENTS WITH THE AIM OF ELIMINATING CORRUPT PRACTICES IN THESE AREAS. ACCORDINGLY, THE COMMISSION REQUESTS THAT THE ECONOMIC

AND SOCIAL COUNCIL AT ITS SIXTY-FIRST SESSION GIVE PRIORITY
CONSIDERATION TO THIS QUESTION AND ESTABLISH AN EXPERT GROUP TO
STUDY AND PREPARE, BASED ON THE PRINCIPLES SET FORTH IN PARAGRAPH
3 HEREOF, RECOMMENDATIONS FOR SUCH AN AGREEMENT. THE REPORT
OF THE EXPERT GROUP WOULD BE SUBMITTED TO THE ECONOMIC AND SOCIAL
COUNCIL AT ITS SIXTY-THIRD SESSION.
MEMBERS OF THE EXPERT GROUP WOULD BE APPOINTED
BY THE SECRETARY-GENERAL ON THE BASIS OF THEIR PERSONAL EXPERTISE
IN CONSULTATION WITH GOVERNMENTS AND WITH DUE REGARD TO REGIONAL
BALANCE. THE CENTRE ON TRANSNATIONAL CORPORATIONS, ALONG WITH SUCH
OTHER ORGANS OF THE UNITED NATIONS AS THE ECONOMIC AND SOCIAL
COUNCIL DEEMS APPROPRIATE, WOULD GIVE FULL SUPPORT AND ASSISTANCE
THE EXPERT GROUP IN ITS WORK.
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